Doc Code: AP.PRE.REQ

PTO/SB/33 (07-05)
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional): P-3944-US

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Application Number	Filed
10/056,049	January 28, 2002

First Named Inventor: SHARONI, David

Art Unit	Examiner
2624	AZARIAN, SEYED H.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

- ☐ applicant/inventor.
- ☐ assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)
- ☒ attorney or agent of record. Registration number 52,388
- ☐ attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____

Signature

Guy Yonay
Typed or printed name

212-632-3496
Telephone number

February 21, 2006
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

Attorney Docket No.: P-3944-US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):	SHARONI, David et al.	Examiner:	AZARIAN, Seyed H.
Serial No.:	10/056,049	Group Art Unit:	2625
Filed:	January 28, 2002		
Title:	VIDEO AND AUDIO CONTENT ANALYSIS SYSTEM		

PRE-APPEAL BRIEF AND REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Pre-Appeal Brief and Request for Review is submitted together with a Notice of Appeal in response to the final Office Action dated September 8, 2006 issued by the United States Patent and Trademark Office in connection with the above-identified Application. A response is due December 8, 2006. Accordingly, this Pre-Appeal Brief and Request for Review is being timely filed.

Kindly consider the following remarks:

Remarks/Arguments begin on page 1 of this paper.

APPLICANT(S): SHARONI, David et al.
SERIAL NO.: 10/056,049
FILED: January 28, 2002

REMARKS

I. Introduction

In the final Office action, the Examiner maintained his rejection of all pending claims in the present application, claims 1 - 8 and 10 - 20, under 35 U.S.C. § 103(a), as being unpatentable over Fernandez et al. (US. 6,697,103) in view of Johnson (US 6,275,855). Because there were clear errors in the Examiner's rejections and/or the Examiner has omitted one or more essential elements needed for a prima facie rejection, this pre-appeal brief and request for review is suitable.

As described below, there are at least two bases for Applicants' traversal of the rejections. First, the references cited by the Examiner, alone or in combination, do not teach or suggest every element of each independent claim. Second, the references cited by the Examiner come to solve different problems and are incompatible with each other. Therefore, there would have been no reason for one of ordinary skill in the art to attempt combine the references.

II. Discussion of the Cited References

Fernandez discloses in connection to controller 6:

> Additionally software 66 therein includes operating system ... as well as innovative instruction code and any related firmware or circuitry/equipment code for analyzing and/or processing data according to preferred embodiment one or more of the following functional modules....object movement processing 163 ... and visual object analyzer (col. 8, lines 31 – 43).
>
> Such modules are generally user customizable and adaptable according to particular need for object surveillance. ... Additionally, to improve program performance, one or more of such modules may be omitted or uninstalled from controller (col. 8, lines 44 – 55)

Fernandez teaches the use of a content-analysis application, which is pre-installed in the controller according to the user's preference. Modules may be uninstalled off-line prior to additional use of the system. Fernandez does not teach or fairly suggest dynamic installation of content-analysis applications during operation in general and further does not teach or suggest dynamic installation of the application based on a notification received from one of the processing units.

Fernandez further discloses:

> Additionally, controller user may provide input to specify or request current or future monitoring... In this manner, software 66 is configured or updated via database records, ... to include, for recognizing or searching one or more object, or contextual observation at detector sites or object directories associated therewith (col. 6, line 63 – col. 7, line 2, emphasis added).

The quotation above teaches manual activation by a human to update software 66. Nowhere does the Fernandez reference disclose installation of a content-analysis application from an application bank to a processing unit associated only with one sensor. Therefore, Fernandez does not teach or suggest dynamic installation of content-analysis applications during operation of the system to one or more of the processing units based on a notification received from one of the processing units.

Johnson discloses:

> [M]ethod and article of manufacturing to advise a system operator when a monitored alert object event has occurred, provide a vehicle to analyze information relevant to the occurrence of that event and lastly, allow for the immediate execution of remedial actions to minimize adverse consequence potential associated with the event (see col. 2, line 66 – col. 3 line 6, emphasis added).

> [M]onitored system CPU indicating an alert object event has taken place. Having once received an alert notification, the system next determines if the received alert is valid, if found invalid, the system advises the improved alert monitoring system operator that an error has occurred... Finding the alert information ... valid, the improved alert monitored system next determines if the representative icon warrants an object status modification. Such modification typically entails the changing of an icon color to reflect a transition of one status state to another (col. 5, line 47-67, emphasis added).

Johnson teaches the use of a first system which sends an alert to the CPU of a second system. The second system validates the information and apprises the operator of status modification by changing the color of a status icon on the display of the monitoring system. Thus, Johnson is clearly intended to provide a user with an alert. Johnson does not teach or fairly suggest, and the Examiner does not contend that Johnson teaches or suggests, dynamic installation of content-analysis applications during operation of the system to one or more of the processing units in general and further does not teach or suggest dynamic installation of the application based on a notification received from one of the processing units.

III. Argument

Pending claim 1 recites:

> two or more processing units, each coupled to a respective video or audio sensor...a control unit coupled to said processing units and to said application bank, said control unit able to instruct said application bank to install at least one of said content-analysis applications into at least one of said processing units based on an alert received from one or more of said processing units

Pending claim 8 recites:

> a processing unit...said processing unit able to send an alert when predefined condition associated with at least a portion of said ... data is detected... and a control unit coupled to said processing unit and to said application bank, said control unit able to instruct said application bank to install one of said applications into said processing unit based on said alert

Pending claim 10 recites:

> detecting a predefined condition...sending an alert... and installing a content-analysis application into a video or audio processing unit from an application bank ... according to said alert

Pending claim 18 recites:

> detecting a predefined condition...sending a notification... and instructing said application bank to install at least one of said content-analysis application into at least one of said processing unit based on said notification

A. The Fernandez and Johnson References Taken Together do not Teach or Suggest Every Element of Claims 1, 8, 10 and 18

Neither Fernandez nor Johnson, alone or in combination, teach or suggest at least "control unit able to instruct said application bank to install at least one of said content-analysis applications into at least one of said processing units based on an alert received from one or more of said processing units", as recited by claim 1, "said control unit able to instruct said application bank to install one of said applications into said processing unit based on said alert", as recited by claim 1, "installing a content-analysis application into a video or audio processing unit from an application bank ... according to said alert", as recited by claim 10 and "instructing said application bank to install at least one of said content-analysis application into at least one of said processing unit based on said notification", as recited by claim 18.

As discussed above, Fernandez teaches the use of a content-analysis application, which is pre-installed in the controller according to the user's preference. Modules may be uninstalled off-line prior to additional use of the system. Johnson is directed to the use of a first system which sends an alert to the CPU of a second system. The second system validates the information and apprises the operator of status modification by changing the color of a status icon on the display of the monitoring system. Accordingly, neither Fernandez nor Johnson, alone or in combination, teach or suggest dynamic installation of content-analysis applications during operation of the system in general and dynamic installation of the application based on a notification received from one of the processing units in particular.

B. The Examiner Has Not Made a Prima Facie Case Because the Fernandez and Johnson References are Incompatible

Fernandez and Johnson are directed to different fields and have different goals from each other. Fernandez is directed to an integrated imaging and GPS network to monitor remote object movement whereas Johnson is directed to a computerized alert system to increase awareness of an operator, which may be useful in connection with environmental controls and home alarm systems.

The object of the Johnson reference is to provide standardized or uniform presentation of information relating to changes in the status of a monitored object, irrespective of the alert system or computer platform from which the status change is reported (see col. 2, lines 17 – 23). The goal of the Fernandez reference is to provide a more flexible and scaleable solution for monitoring and processing remote objects (see col. 1, lines 27 – 30). There would have been no reason for one of ordinary skill in the art at the time the present application was filed to combine the system of Fernandez with the system of Johnson.

In the office action, the Examiner contends that it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Fernandez invention according to the teaching of Johnson because it provides a processing unit (CPU) that automatically analyzes and validates alert information once an alarm event occurs, which can easily be implemented to the software storage modules of an integrated surveillance system.

Applicants respectfully submit that the Office Action did not make out a prima facie case of obviousness, because it provides no evidence of a suggestion or motivation in the Fernandez reference to look to Johnson and modify Fernandez to form what is claimed, in particular a

control unit able to instruct an application bank to install at least one application into at least one processing unit based on an alert received from one or more of said processing units.

Because neither the suggestion to make the claimed combination, nor the reasonable expectation of success thereof, was stated in the Action to be found in Fernandez, Johnson or the knowledge generally available to one of ordinary skilled in the art at the time the invention was made, the Action did not establish a prima facie case of obviousness. Accordingly, the Action relies on impermissible hindsight to make the combination of references. Applicants respectfully submit that the Office Action has not provided evidence from Fernandez or Johnson for a suggestion or motivation to combine the references.

Therefore, Applicants respectfully submit that it is improper to combine Fernandez and Johnson together to reject Applicants' claims.

For the foregoing reasons, Applicant respectfully submits that independent claims 1, 8, 10 and 18 are not made obvious by the combination of Fernandez and Johnson and the pending claims are allowable over the art of record. In view of the foregoing amendments and remarks, pending claims 1 - 8 and 10 - 20 are deemed to be allowable. Their favorable reconsideration and allowance is respectfully requested.

Respectfully submitted,

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Dated: November 6, 2006

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